

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.11 OF 2001

Ashok Baburao Salokhe

...Appellant

Vs.

Kondiba Baburao Otari & Ors.

...Respondents

Ms Varsha Palav for the Appellant

Ms Madhavi Tavnandini for Respondent Nos.1 to 3.

CORAM: A.S.OKA, J.
DATED: JANUARY 20,2005.

P.C.:

1. This Second Appeal is filed by the unsuccessful Plaintiff. The prayer made by the Appellant in the suit filed in the Trial Court is for perpetual injunction restraining the Respondents from obstructing the business of the Appellant and restraining the Respondent No.6-Corporation from cancelling the permit/licence granted in favour of the Appellant. The business of the Appellant involved activity of melting gold and silver. It is not in dispute that the licence/permit which was granted to the Appellant has expired in the year 1999. Hence, there is no question of the Appellant carrying on the business on the basis of licence/permit which has already expired.

2. During the pendency of the Second Appeal, a report was called from the Maharashtra Pollution Control Board for ascertaining whether the business activities of the Appellant

are creating pollution. The Officers of the Board found that the business activities of the Appellant were not in operation. After inspecting the similar type of activity in the nearby area, recommendations have been made by the Board in its report submitted to this Court. The report of the Pollution Control Board is accepted.

3. Though nothing survives in the Second Appeal, it is obvious that if any application is made for grant of fresh licence/permit or for renewal of the licence/permit which has already expired, the Competent Authority will have to ensure that the compliance is made with the recommendations of the Maharashtra Pollution Control Board. Office is directed to forward a copy of the said report to the Respondent No.6-Corporation.

4. I am informed that there is a fresh suit filed by the Appellant against the Respondent No.6-Corporation for grant of licence. While observing that the suit will be decided on its own merits, it must be stated that the Trial Court will also have to consider the recommendations of Maharashtra Pollution Control Board in the said Report.

5. Subject to observations made above, Appeal is dismissed with no order as to costs.

Judge.